Canada at War

A SPEECH

DELIVERED BY

Rt. Hon.

Sir Robert Laird Borden

K.C., P.C., G.C.M.G.

IN

NEW YORK CITY

NOVEMBER 18th, 1916

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The EDITH *and* LORNE PIERCE
COLLECTION *of* CANADIANA

Queen's University at Kingston

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A Speech delivered by Sir Robert Borden before the Lawyers' Club, at New York City, November 18, 1916.[1]

Mr. President and Gentlemen,—From the bottom of my heart I thank you for your welcome. The very great honour which you have bestowed upon me comes from members of the profession to which more than twenty-five years of my life were devoted. It was with great reluctance and not a little pain that I relinquished my active association with that profession nearly twenty years ago; and very happy are my memories of the days when the duties of an advocate commanded my entire energies. I speak not only as a lawyer to lawyers, but as kinsman to kinsmen; for the same elements although in somewhat different proportions constitute the population of the United States and that of Canada. Although your country has reached a more advanced stage of development than ours yet there is marked similarity in relative conditions. In their vast extent of territory rivalling that of Europe, in their situation fronting on the two great highways of the world, in the amazing abundance and variety and in the character of their natural resources, the two countries bear a striking resemblance. Great problems of national development such as the assimilation of immigrants from countries which do not enjoy democratic institutions, the regulation of transportation, the development and use of inland waterways, the control of public utilities, the conservation and utilization of the public domain, of water-powers and other natural resources, must be considered and solved both at Washington and at Ottawa. In each country there is a federal system under which the distribution of legislative and executive power, between the federal authority on the one hand and the state or provincial authority on the other, necessarily involves judicial determination as to the validity of executive or legislative action in either sphere.

(1) On November 18, 1916, Sir Robert Borden was the guest at a luncheon given by the Lawyers' Club of New York City, by whom some months previously he had been elected an Honorary Life Member. Having been invited by the Club to deliver an address, Sir Robert Borden spoke as above.

Then there is the great controlling factor of a common language and literature. Each country traces its jurisprudence to the same source. On either side of the boundary which is at once unguarded and invisible the national life finds its inspiration in the like ideals of democracy. It is true that there are tariffs; but during the past decade we manifested our neighbourly spirit by purchasing your products to the extent of three thousand millions of dollars. I should also add that we paid for them; and as a final proof of our friendship we have recently borrowed from you one hundred and twenty-five million dollars of the sum thus paid. During your civil war some sixty thousand Canadians crossed the border to fight in what they conceived to be the battle for freedom. Our law permits enlistment of none except British subjects and persons actually domiciled in Canada but it is said that noble and adventurous spirits from this side occasionally practise upon the credulity of Canadian recruiting officers. We have exchanged immigrants both east and west; among them are college and railway presidents, commercial magnates, divines, physicians, jurists and scientists of eminence, incipient or otherwise. The social ties between the two countries are very close and intimate, and the arrows of the little winged divinity shoot ceaselessly across the frontier. In short the citizens of these two neighbouring and kindred commonwealths have developed a reciprocal understanding, good-will and respect so complete that it would be difficult to find a parallel in history.

In the upbuilding and development of national institutions whether in your Republic or in our Empire the Bar has naturally exercised a notable influence. Those who devote their lives to the study of the law and to the practice of their profession in its administration are necessarily called upon to take no small part in the moulding of the nation's jurisprudence and in the development of its constitutional law. Upon them also devolves in great measure the consideration and study of that series of usages, customs and conventions to which the sanction of the nations has given form and meaning in practice and which constitute what is known as international law.

In the system of jurisprudence common to both countries the tendency is to be guided by precedent and to revere it. Adherence to precedent naturally creates a tendency to conser-

vatism and this spirit has undoubtedly a healthy function in balancing sincere and public-spirited but sometimes hasty and ill-considered efforts for change or innovation. Such a function is, however, of a negative character and the spirit which it exemplifies cannot be regarded as the controlling characteristic of the Bar of either country. Lawyers in the United States and in our Commonwealth have always recognized, and to-day they are recognizing in increasing degree, the positive duty of lending their talents and sympathies to constructive endeavour for such development of law as may make it adequately responsive to the needs of changing social and national conditions.

Nearly a thousand years ago our fathers united in the struggle out of which arose that ancient and renowned charter which still declares the equal rights of all men before the law. We, their descendants, are striving, uncertainly and painfully it may be, to establish the great modern charter of democracy by which shall be given to all men equality of opportunity so far as that may humanly be possible.

A great lawyer who sits upon the bench of your highest court—a jurist known and admired not only in your own country but also wherever the King's writ runs—has declared that the purpose of the law must be found in some help which law brings towards reaching a social end. This higher function of the lawyer has recently been recognized as I understand by one of your greatest law schools in declaring, as a prime purpose of its policy, that its students shall be equipped with the training and inspired with the ideals which will enable them to realize and undertake this high duty.

For the lawyer who is animated by a true conception of the dignity of his profession there is, however, a not less important duty in a wider field than that of domestic jurisprudence. To the Bar of a great neutral nation not less than to the lawyers of our own world-wide Commonwealth the events of the past two years have made apparent the importance of defining international law and right in such terms and of maintaining them by such sanctions that the peace of the world shall be maintained and international justice vindicated against any offending nation. The life of every people is in some measure bound up with the

life of all others. One notable difference distinguishes the conditions of our civilization from those of a thousand years ago. The moderns through their command of the forces of nature, their discoveries in physics and their development of the mechanical arts, have created means of transportation and communication which bring all the nations of the earth into more or less intimate touch and association. Henceforth no nation and indeed no continent can hope to play the role of hermit. The Australians at Gallipoli and the Canadians at Ypres were as truly fighting for their liberties—and in our belief for the liberties of the world—as if they had held the battle line within the territories of their respective Dominions.

Thus the nations have been brought so closely together that there is a certain community of national life throughout the world. Just as the citizen who fails to realize his duty of service to the state has not attained the highest conception of citizenship, so the nation which does not realize and fulfil its duty of service to the world has not reached the highest conception of national life.

As international relations become more intimate and more complex there is the greater need that public right shall be more accurately and authoritatively defined and that as between the nations it shall be enforced by sanctions corresponding to those which within the state put down, by the power of the national organization, every violation of laws established for its orderly government. Let us at once admit that there has been no substantial progress towards a world-wide organization through which the violence of a powerful nation, spurning all international tribunals and acting in despite of public right, may be effectually restrained and punished. As the establishment and enforcement of law within an organized civilized community depend in the final analysis upon the will of the people and upon public opinion within that community, so the enforcement of public right through organization of the nations prepared in advance must also depend upon the public opinion of the world. Upon the advance and development of that opinion must rest the hopes of those who look for a world tribunal backed when necessary by world-wide force for the restraint of an outlaw nation. Many voices admonish us that all this is idealistic and

visionary, that the standards, conceptions and purposes of our present civilization forbid the realization of any such ideal, that there must be the death of this era and the birth of a new before humanity shall attain to so much self mastery. All conjecture is idle, but to me it is certain as my own existence that modern civilization will ultimately disintegrate and perish if it fails to achieve this ideal. In the work of humanity through all the ages can we point to anything permanent that is not founded on idealism? Let him who aspires to this or any great "far off divine event" be of good cheer. The world shall yet say many times to the idealist "Galilean, thou hast conquered".

In pioneer days on this western continent before the machinery of law was established the better elements of a community sometimes found it necessary to punish crime and suppress violence and disorder by concerted assumption and exercise of authority. In no other way could orderly standards of life be established and maintained and the moral conscience of communities asserted. Nations determined to uphold ideals of public right and to resist attempts at militarist domination may be concerned to co-operate in like manner for the preservation of peace until they can erect and maintain a tribunal whose decrees in international differences shall be respected and enforced by the organized power of civilization.

To us involved in the most terrible struggle that humanity has ever known—a struggle in which we have taken part of our own free will and because we realize the world-compelling considerations which its issues involve—the events of the past two years have brought both a lesson and an inspiration. Immersed in the purely peaceful problems of material progress and development we were suddenly awakened by a call which brought to us an over-mastering conviction that there was something infinitely greater than the work in which we had been so absorbed. That conviction penetrated the very soul of the nation and with it came an inspiration which has enabled the Canadian people not only willingly but gladly to undertake responsibilities, to accept burdens, and to accomplish tasks, which two years ago would have been regarded as impossible and even inconceivable.

Many hundred thousand men will return after this war to their homes in the oversea Dominions of the British Common-

wealth. They will have thronged upon the stage of the world's theatre of action and taken a mighty part in settling world issues and determining the future destiny of civilization and humanity. Upon our Atlantic and Pacific shores, by our inland waterways, in the northern hinterlands of Ontario and Quebec, on our vast western plains, and still further west within the shadow of majestic mountain ranges, these men will take up anew the task of developing and upbuilding our country. They will take up that work with a consciousness that Canada has played a worthy part in the fateful struggle which she entered at the call of duty and for the cause of freedom. Theirs will be an imperishable recollection of comradeship with men of the Motherland and of all parts of the King's Dominions; theirs also a wider vision and deeper insight from service in a high cause. Hardly less profound will be the influence of the war upon all our people. They have learned that self sacrifice in a just cause is at once a duty and a blessing, and this lesson has both inspired and ennobled the men and women of Canada. It was indeed worth a great sacrifice to know that beneath eagerness for wealth and apparent absorption in material development there still burned the flame of that spirit upon which alone a nation's permanence can be founded. One must move among our people to realize their overmastering conviction that the justice and greatness of our cause overpower all other considerations and to comprehend the intensity of the spirit which permeates and quickens every Canadian community.

The overseas men will have learned another lesson and they will have learned it so thoroughly that it never can be forgotten. That lesson is two-fold: first, that the liberty, the security and the very existence of our Empire are dependent upon the safety of the ocean pathways whether in peace or war; next, that while sea power cannot of itself be the instrument of world domination it is nevertheless the most powerful instrument by which world domination can be effectually resisted. Three hundred years ago it forever crushed arrogant pretensions then put forward to control western trade routes and to exclude therefrom the free nations of the world. Little more than a century ago it maintained freedom against world domination by a single military system. To-day it remains the shield of the same freedom

and it will so continue. The burden of so tremendous a responsibility must not rest upon Britain alone but upon the greater Commonwealth which comprises all the King's Dominions.

One peculiar trait of the British nation is its faculty of self criticism during times of stress. This criticism, these internal disagreements, this occasional political unrest, however, do not indicate any real lack of unity or determination. They are characteristic of the race, they are inseparable from the experience of a people who conduct government in the open under democratic institutions. They are but the mists which hover about and perhaps for the moment obscure the granite summit of the nation's purpose. Across that purpose there lies no pathway to an inconclusive peace. We fight for an abiding peace, not for a truce.

I have some just claim to know the spirit of my countrymen and I most solemnly affirm that among us there was absolutely no thought of aggression or attack on any nation. In this the spirit of our Dominion exemplified that of the whole Empire. We in Canada were entirely masters of our own destiny; but just as in the Motherland when the hour struck there was no wavering and no waiting, so in Canada the decision was never for a moment in doubt. Our resolve is as fixed and unshaken to-day as at the first and whatever loss or sacrifice we may still have to bear we will not waver or falter. Nearly two years ago the First Canadian Division, composed of untried men gathered hurriedly from the ordinary avocations of life throughout our country, were put to the supreme test at Ypres. Men never faced more terrible odds or more horrible methods of warfare. They lost heavily but their ground was held, the day was saved and the path to Calais was not opened. It was suggested that on the anniversary of that day flags should fly at half-mast throughout our Dominion in memory of our glorious dead. But we held that memory worthy of a truer honour. On that revered anniversary, never to be forgotten by Canadians, our flag flew at mast-head from ocean to ocean in solemn but proud remembrance of those who had fallen and in testimony of the unconquerable spirit which shall animate the Canadian nation to the end.